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AUTHOR Buchser, Linda
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ABSTRACT

Reviewing literature on educational finance and law, this paper analyzes the rationale for the recent school finance reform movement and recounts the movement's progress from 1965 to 1979. An overview of the problem discusses state equalization programs' ability to provide financial equity and the relationship of financial equity to equal opportunity. Discussion of the reform movement's first phase (from 1965 to 1973) covers federal standards on students' needs and fiscal neutrality, standards for judicial review in equal protection cases, the relationship of judicial review to fiscal neutrality, and miscellaneous circumstances contributing to successful reform. The second phase identified (from 1973 to 1979) includes several major state court decisions; changing standards of equity; reform legislation, briefly summarized; and school finance reform in California, particularly the state's responses to 1972 and 1976 decisions in "Serrano vs. Priest" and to the passage of Proposition 13. References are included. (MCG)

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SCHOOL FINANCE REFORM:

The Quest for Equal Educational Opportunity

Linda Buchser

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Highly controversial, the issue of school finance reform has been debated among educators, legislators, and concerned members of the general public for many years. The current reform movement began during the 1960s as state systems for financing public education based largely on the local property taxes received close scrutiny. Critics focused on the failure of these systems to provide equal educational opportunity for all students and on inherent taxpayer inequities. More recently, the situation has become more controversial and complicated as property tax reform legislation has gained popularity in state after state.

Overview of Problem

Generally, school districts are funded from three sources --- state revenues, federal revenues and revenues from local property taxes. Most states use the Strayer-Haig model of funding equalization. (Thomas) In this plan the amount of state aid a district receives is based upon its ability to finance its programs through local property taxes: districts with limited tax bases receive more state aid per pupil.

State equalization plans, however, have not resulted in equal resources for local districts, and this is widely regarded as evidence of unequal educational opportunity. Local property tax revenues vary according to the value of residential, commercial and industrial property and according to the willingness of voters to tax that wealth. In most states equalization aid remains insufficient to overcome differences in local revenues. In addition most equalization plans were developed between 1920 and 1945. Social changes make these plans obsolete --- affluent families have moved to the suburbs and poor families to the central cities. Consequently, city school systems enroll a

disproportionate number of students with language and learning disabilities requiring expensive programs.

Merely providing equal amounts of money for each student will not necessarily result in equal educational opportunity. Disparities exist between districts with respect to (1) costs of providing different programs, (2) costs of providing equivalent programs, (3) revenue raising capacity as reflected in property values, and (4) tax effort defined as revenue produced in relation to capacity. (Andrew) While equalization plans have attempted to consider capacities, efforts, and needs of individual school districts, it is difficult to weigh these factors. As a result, most legislation and litigation in the area of school finance reform has accepted expenditure differences between districts as the only measure of educational quality. Equal tax dollars is an inadequate criterion, but it has served as a useful starting point in the quest for greater equity and has provided a measure of inequality that people can readily understand. (Rickman)

More recently the courts have accepted the idea that an equal distribution of resources may not be equitable, that educational needs vary between children and communities and that costs vary between different communities and programs within communities.

Reform Movement: Phase I (1965-1973)

The current school finance reform movement began during President Johnson's War on Poverty with the passage of the Elementary and Secondary Education Act by the United States Congress in 1965. Title I of that act provided substantial funds for the education of economically disadvantaged students. While it did not attempt to reform state school finance

systems, it had significant equalizing effects and brought attention to disparities in funding school programs.

In 1968 Wise argued, in his Rich Schools, Poor Schools, that an unequal per pupil expenditure among districts amounted to unconstitutional discrimination based upon location of residence and wealth and denial of equal protection rights guaranteed by the Fourteenth Amendment of the United States Constitution. (Thomas) In that same year, Horowitz claimed that education was a fundamental interest and that inequalities in school financing could be challenged successfully on equal protection grounds. (Horowitz)

The federal student needs standards. The first equal protection attacks on state school finance systems were based on failure of the systems to meet individual student needs. Class action suits in Virginia and Illinois challenged the states' programs for allocation of state aid to local districts as violating the equal protection clause. The Illinois district court found the case "nonjustifiable" for lack of a manageable standard. The court refused to involve itself in a determination of equal educational opportunity, finding educational need to be a "nebulous concept" more appropriately left to the legislature. Both suits were dismissed and the Supreme Court affirmed.

Questions raised in these early cases revealed several problems: the lack of research concerning the effects of a state's finance system; the lack of consensus over the goals of education and what constituted a "basic" education; the absence of meaningful cost-effectiveness analysis; the absence of a clear definition of educational need; and the absence of exact measurement technology. (LaMorte)

The federal fiscal neutrality standard. Failure of initial challenges based on educational needs to invalidate school finance systems prompted reformers to seek a more effective standard. At this time, Coons, Clune, and Sugarman developed the concept of "fiscal neutrality." They argued that the primary constitutional defect of current state school finance programs was discrimination based on wealth. They maintained that the "quality of public education may not be a function of wealth other than that of the wealth of the state as a whole." (Coons, Clune, Sugarman) Instead of proposing equalization of educational resources and programs, they emphasized equalization of local financial capacity so that a given tax rate would yield the same revenue in every school district. They advocated the use of district power equalizing, a program that would divorce the level of support from local property wealth. District power equalizing would make school support dependent upon the willingness of local residents to tax themselves and upon state aid. (Coons, Clune, Sugarman) Equalization is accomplished by establishing a state-set property base as a norm figure. School district wealth is equalized while local choice in tax effort is preserved. Rather than arguing for equity for the pupil, Coons, Clune, and Sugarman sought equity for the taxpayer and regarded local control as an important value to preserve. (Lindquist)

According to Lindquist, fiscal neutrality was the most significant impetus to legal challenges of state school finance systems: it did not require the courts to evaluate either the sufficiency of school funding levels or the educational needs of particular children; in addition, it avoided judicial involvement in complex remedial considerations. (Lindquist)

Judicial review in equal protection cases. The Warren Court established two standards in application of the equal protection clause of the Fourteenth Amendment. In most cases, any rational basis would justify disparate treatment. The rational relationship standard of review requires only that the state's system be shown to bear some rational relationship to legitimate state purpose. On the other hand, if unequal treatment were premised upon an inherently "suspect classification" or deprived a person of a "fundamental interest," strict scrutiny would be used in examining the constitutionality of the legislation in question. The strict scrutiny standard of review places the burden on the state to establish not only that it has a compelling interest which justifies the law, but that the distinctions drawn by the law are necessary to further its purpose.

Judicial review and the principle of fiscal neutrality. Wise and Coons, Clune, and Sugarman based their claim that education was a fundamental interest on the ground that failure to provide equal educational opportunity has serious, negative consequences for individuals and society. They also argued that local property wealth was a suspect classification that no state could sustain under the compelling interest requirement. (Wise)

Serrano v. Priest, the initial test of the fiscal neutrality principle, brought the reformers their first major victory. The California Supreme Court ruled that the state's school finance system violated the equal protection clauses of the state and federal constitutions because it made educational expenditures a function of community wealth. The court supported the fiscal neutrality principle, holding that education was a fundamental interest, that school district

wealth was a suspect classification, and that the California school financing system based on local wealth was not necessary to accomplish a compelling state interest. The court stated that the "funding scheme invidiously discriminated against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors." The case was remanded to the trial court and the development of a remedy was left to the state legislature.

Litigation following Serrano(I) involved federal and state courts. In Van Dusartz v. Hatfield, a United States district court held that the Minnesota school finance system, which made per pupil spending dependent upon school district wealth, violated the equal protection clause of the state constitution. Relying on Serrano and Van Dusartz, another district court held in Rodriguez v. San Antonio Independent School District that the Texas school finance system, which involved local property taxes and a state-funded foundation program, violated the Fourteenth Amendment's equal protection clause. The Texas Board of Education appealed the case directly to the United States Supreme Court. During this time state court decisions in Kansas, Michigan, New Jersey, and Arizona invalidated school finance systems on the basis of state and federal constitutional provisions. California, Colorado, Florida, Illinois, Kansas, Maine, Michigan, Montana, North Dakota, Utah, and Wisconsin enacted school finance reform legislation during 1972-73.

Other factors affecting reform. While favorable court decisions were primary in initiating school finance reform during this time, Kirst points to other factors which also contributed to the success of the movement. There was a strong commitment of top political leaders in several states including Minnesota, Wisconsin, Michigan and Florida.

In some cases reform legislation was enacted without court mandate. In addition, this was a period of state budget surpluses, and political coalitions were formed which were able to put together diverse programs. Coalitions are easier to build in times of budget surplus. California's AB65 is an example --- the state had enough money to appease all interest groups. (Kirst)

Reform Movement: Phase II (1973-1979)

On March 21, 1973, the United States Supreme Court reversed the district court's decision in the Rodriguez case which had invalidated the Texas school finance system. The court revealed two key findings: (1) Texas law did not operate to the disadvantage of any clearly identified "suspect class" because poor school children did not necessarily reside in property-poor school districts, and (2) education was not a fundamental interest guaranteed by the United States Constitution.

State court school finance reform decisions. Because the Rodriguez decision effectively ended school finance reform litigation in the federal court system, such litigation moved to the state courts. State court decisions were based on education or equal protection provisions of state constitutions. Soon after the Rodriguez decision, the New Jersey Supreme Court, in Robinson v. Cahill, declared the state school finance system unconstitutional because it failed to provide sufficient financing for a "thorough and efficient" education as mandated by the state constitution. The court found that existing expenditure disparities were one indication that the state educational system failed to provide all children an equal educational opportunity.

In April 1974 a California Superior Court, in Serrano v. Priest (II), held that the state's public school financing system violated the state equal protection clause, which it determined was more exacting than the equal protection clause of the Fourteenth Amendment when applied to the California state financing system. (In Horton v. Meskill, the Connecticut Supreme Court invalidated that state's school finance law on similar grounds.) The court reasoned that education was an integral component of a free and representative form of government and was a fundamental right for purposes of state equal protection analysis. The court also held that the financing scheme, based on district wealth, created a suspect classification. Because the state failed to show a compelling interest to support the legislation, the court invalidated the funding scheme.

Although the Serrano (II) court did not order a specific remedy, it listed alternate plans which could satisfy the fiscal neutrality principle adopted in Serrano (I): (1) full state funding, (2) consolidation of the present 1067 school districts into about 500 districts with boundary alignments to equalize assessed valuations of property between all school districts, (3) retention of the present school district boundaries but removal of commercial and industrial property from local taxation for school purposes, (4) school district power equalizing, and (5) vouchers.

Changing standards. Litigation in Wisconsin, Ohio, New York, and Washington have seemed to indicate changing standards of educational equity. The case Buse v. Smith overturned Wisconsin's expenditure equalization legislation on the state's tax uniformity clause. Buse struck down the district power equalizing reform theory which had been the most generally accepted method for equalizing educational expenditures. Courts in Ohio and New York ruled that a system with equal tax yield for

equal property tax effort (e.g. Serrano) discriminated against the big cities. The Serrano approach, relying solely on variations in local property tax capacity, ignored variations in pupil or district needs. In the case Board of Education v. Nyquist, the New York Supreme Court held that the state's school finance system was unconstitutional because it ignored the higher costs for large urban school districts and the effect of municipal overburden which violated the state's equal protection clause as well as the state constitution's educational provisions.

Municipal overburden, as explained by Hooker, is the result of two phenomena peculiar to cities: a high population density which requires more and costlier services; and a high percentage of low income residents. Not only are there overlapping taxing jurisdictions --- county taxes, city taxes, school district taxes, mass transit district taxes, water district taxes, flood control district taxes, and so on --- but the high cost of services such as police and fire protection makes the urban property tax load significantly higher than it is in suburban and rural areas. (Hooker)

The Washington case has added yet another dimension to the equity test. After losing a Serrano-type case, the city of Seattle became the plaintiff in a new suit. Seattle filed under the clause of the Washington constitution which requires "ample provision" for education. The voters in Seattle would not approve an adequate property tax rate to provide an "ample program;" therefore, it became the state's responsibility to support a "sufficient program."

Summary of Reform Legislation

Generally, improved equalization has been achieved either by reducing disparities among districts or by increasing resources to low-wealth districts. Thomas lists the following reform alternatives: full state funding, district power equalizing, strengthened equalization programs, and redistricting to equalize property wealth. Between 1971 and 1975 twenty states enacted school finance reform legislation. Most of the states assumed a substantial increase in responsibility for funding public schools by using surpluses or by imposing new taxes. Six of the states substantially reduced local property taxes and four states made property tax burdens more equitable. All reforms reduced expenditure disparities between local districts. Several states acted to recognize differences in educational needs and costs. Eleven states acted to stabilize school budgets by limiting taxes and/or expenditures. (Thomas)

Reform in California

As with other states in the 1960s, it became apparent that California's school finance system, based on a low foundation program with heavy reliance on property tax revenues, was producing dramatic differences among districts in expenditures per pupil. Because of increasing assessed value of property, the differences were widening annually. In 1970-71 Emery Unified in Alameda County could spend $2,448 per ADA with a $2.66 tax rate, while its neighbor, Newark Unified, raised $719 per ADA with a $5.69 tax rate. Just two years earlier Emery had generated almost $800 less ($1,655 per ADA) with the same tax rate. In the same period, Newark's program grew by less than $100 per ADA. (Mockler; Hayward)

In 1971 when the California Supreme Court invalidated the state school finance system in Serrano, it made the state legislature responsible for developing a remedy. Since that time, the legislature has dealt with two reoccurring and essentially different problems of school finance reform --- closing expenditure disparities among districts and increasing taxpayer equity.

Response to Serrano(I). Reform started seriously in 1972 with the passage of SB90. This measure increased the foundation program which "leveled-up" low expenditure districts and permitted tax reductions in low assessed value districts; provided for differentiated revenue limits so that a tax rate reduction automatically occurred if the assessed value grew at a faster rate than the permitted revenue limit adjustment; applied a "squeeze" factor to the annual inflation adjustment so that districts at the foundation level were authorized to increase per pupil expenditures by about six percent per year while districts above the foundation program were allowed to increase expenditures by less than six percent; reduced permissive overrides which had increased the wealth advantage of high assessed value districts. In addition SB90 included the Educationally Disadvantaged Youth Act which provided $82 million in categorical aid for districts with high percentages of family poverty, bilingualism and pupil transiency and an Early Childhood Education program which provided $23 million in 1973-74 and $40 million in 1974-75 for reforming and restructuring K-3 education.

SB90 focused on expenditure disparities and tax relief for low assessed value districts. However, in subsequent years, high wealth districts also received substantial tax relief since assessed values often grew at a faster rate than their permitted revenue limit adjustments, thus

producing sizable tax rate reductions. In fact, after the initial round of reductions, high assessed value districts with high expenditures actually received greater tax rate reductions, resulting in even greater disparities between district tax rates. (Mockler; Hayward)

In 1975 the legislature passed SB220 which modified some provisions of SB90 by increasing revenue limits, restricting summer school support, and adding an urban general aid provision. This last provision allowed, for the first time, general support to districts that had large numbers of poor pupils. Previously, such funding had been restricted to instructional areas and took the form of categorical aid. Thus SB220 was the forerunner of a new funding pattern for California --- considering variable or differential costs which the local districts have little or no control over.

In 1976 the legislature again altered its school finance system with the passage of SB1641 which established a separate finance structure for adult programs; increased the general support for schools; restricted the ability of extremely high spending school districts to increase revenues; increased funding for the education of low income, low achieving and limited English-speaking students. In other legislation funding for K-3 was increased from the original $25 million to over $100 million; bilingual education was mandated in certain situations; and a new system for meeting the needs of physically and mentally handicapped students was established.

Response to Serrano (II). When the State Supreme Court decided in 1976 through Serrano (II) that the state's school finance system remained unconstitutional, the legislature responded with AB65. This law provided greater expenditure equity among districts by

substantially increasing the foundation program. In addition, it had several tax equity features which contributed to a reduction of tax rate differences among districts. But more significantly, it addressed differential costs: $69 million in general aid was allocated to 19 large multi-ethnic urban districts. These funds were allocated in recognition of costs relating to integration, general urban considerations, and the multi-cultural needs of such areas. Essentially, the legislature felt that these districts, enrolling almost 30 percent of the state's public school students, had general education needs beyond those identified in categorical allocations. They determined that such districts needed excess general revenues in order to provide the same level of educational services available in the other 1,023 districts.

The broad framework of AB65 attempted to address the total needs of the public schools in a comprehensive manner. It addressed the issues of the fairness of the tax structure supporting the schools, the level of revenue per pupil in all districts, and the funds available for specified needs of students.

Post Proposition 13. Many were optimistic that AB65 would bring about compliance with Serrano. Then in 1978, the voters approved Proposition 13, which limited property taxes to 1% of the 1975 valuation and rendered the equalizing features of AB65 inoperable. (Anton) Proposition 13 could have led to Serrano compliance since the property rich high-spending districts received a much greater portion of revenue from local property taxes than did property poor districts. Had the legislature distributed Proposition 13 bail-out funds on an equal basis to all school districts, Serrano compliance would have been achieved. (Anton) This was not done.

In the long term California will have to "level down" the high spending districts. In the first year, with the legislative bail-out, there was a 9% funding cut for low-spending districts and 15% for high-spending districts. This will lead to substantial leveling down over time. (Kirst) However, using 1980-81 figures released from the State Department of Education, less than 50% of the state's school districts fall within the $100 band mandated by Serrano. (Anton)

A new suit has been filed, Gonzales v. Riles, which addresses inequities caused by other than local land values. This case has been combined with Serrano which should come to the courts again next year. The first issue of the court will be to determine if the state is still out of compliance with the original case and then if the new issues are also out of compliance.

What with diminished state fiscal surpluses, declining enrollments, and the demand for property tax relief, school finance reform has moved more slowly in recent years; however, it has moved in new directions. The courts have given renewed life to educational need formulas after rejecting "need" as a "nebulous concept" in the 1960s. Moreover, the courts are advocating the elusive idea of differential costs of education. The technical problems in meeting these new court mandates are serious. It was much simpler to merely establish "power equalization schedules" so that equal property tax effort resulted in equal amounts of local school revenue. Now the courts are moving into the areas that scholars know the least about: how to adjust for pupil needs in some precise way, how to adjust for uncontrollable costs of education, how to

adjust for municipal overburden. As scholars, courts, legislators and educators address these complex issues, educational opportunity will become more equal.

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